

EXHIBIT D

From: Proctor, Greg <GProctor@beneschlaw.com>
Sent: Wednesday, May 24, 2023 3:36 PM
To: Benjamin A. Campbell; Nilsson, William (DAL); Edward L. Bishop; Stephanie White; Lance Lee; BDL Litigation Docketing
Cc: Tipescu, Mircea; Mehta, Manish; Voyis21-77
Subject: Cathx v Voyis - Final Election of Asserted Claims and Prior Art

Counsel,

I write regarding the parties' Final Election of Asserted Claims and Final Election of Asserted Prior Art in view of Court's Ruling on Plaintiff's Motion to Reconsider and Clarify Aspects of the Court's Claim Construction Order (Dkt. No. 105).

In its December 21, 2022 Election of Asserted Claims, Cathx stated that it will modify its election of asserted claims based on the Court's resolution of Dkt. Nos. 105 and 106. Although the Sixth Amended Docket Control Order (Dkt. 167) is silent on this issue, Judge Schroeder's model docket control order, as reflected in the first Docket Control Order entered into the case (Dkt. No. 32), schedules the final election of asserted claims for 12 weeks before dispositive motions. Following that timeline, Cathx's Final Election of Asserted Claims was due May 23, 2023. Since we did not receive a modified final election of asserted claims from you, please confirm whether Cathx still intends to modify its election of asserted claims or will instead rely on its December 21, 2022 election.

Please note that pursuant to the timing under the model docket control order, Voyis will provide its final election of prior art by June 20, 2023 (8 weeks before dispositive motions).

If Cathx would like to propose a different set of dates for the exchange of final elections, please let us know so that the parties can find a mutually agreeable set of dates.

Best,
Greg



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